IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.11328 of 1997

Dated: 18-01-2007

Between:

1. Mortha Appayamma, W/o Joseph, Hindu, aged about 45 years,
   Door No.57-27-55, As per Quarter No.2,
   Siddhardhanagar, (Burma Colony)
   Near ITI, Junction, Visakhapatnam –7 and 12 others.

... Petitioners

and

1. The District Collector, Visakhapatnam and another.

... Respondents

ORDER:

This writ petition is filed questioning the notice dated 05-05-1997 issued vide proceedings in Rc.1684/1997 RCR, by the second respondent, directing petitioners to vacate the quarters, in which they are staying, on the ground that the same are meant for repatriates only, and to quash the same.

2. In the affidavit filed in support of the writ petition, it is stated that petitioners are repatriates from Burma. The Government of Andhra Pradesh allotted land for rehabilitation of refugees from Burma at Sidharthanagar, Visakhapatnam, and the same is known as Burma colony. Petitioners claim that they occupied the lands allotted to them, and constructed thatched houses therein, in the year 1979. According to them, in 1982 as the said thatched houses were washed out due to cyclone, Government has constructed pucca quarters to the refugees in place of thatched houses and allotted them to some of the refugees. As petitioners were not allotted any quarters even though there were 13 vacant quarters, which were partly constructed, they made an application to the then District Collector, for allotting the said quarters to them, who in turn, permitted the petitioners to occupy the same after completing the remaining construction work. According to petitioners, they got completed the remaining construction work of 13 quarters by spending huge amounts and occupied the same and they have been residing in the said quarters since 1979.

3. The grievance of petitioners is that even though they are residing in the quarters in question, the second respondent issued impugned notice bearing Rc.1684/1997 RCR, dated 05-05-1997 stating that the occupants in 13 quarters are unauthorized occupants and directed them to vacate the said quarters within ten days therefrom.

4. This Court while admitting the writ petition, by order dated 27-05-1997, passed in W.P.M.P.No.13659 of 1997, directed the respondents not to take any steps for eviction of petitioners herein from their respective possession of the houses in question.

5. Heard learned counsel for the parties.

6. Learned counsel for petitioners contended and tried to establish the fact that the petitioners are repatriates from Burma. In support of her contention, learned counsel produced certain documentary evidence.

7. Despite the fact that the writ petition was filed as early as in 1997, the respondents have not chosen to file any counter affidavit.

8. No doubt, though the learned counsel for the petitioners tried to establish the fact in question by producing certain documentary evidence, this Court is of the view that it cannot hold an enquiry into the status of the petitioners as to whether they are repatriates from Burma or not. It is true that the said quarters are meant only for repatriates but not others.

From the impugned notice, it is clear that second respondent issued the said orders directing petitioners to vacate the premises without ascertaining the fact as to whether petitioners are really repatriates or not. The said action in my considered view is definitely violative of principles of natural justice. When once it is established that petitioners are in possession of the said quarters, the minimum requirement for the authorities is to issue a notice directing them to offer their explanation as to why they should not be evicted from the said quarters on the ground that they are not repatriates. When such a notice is issued, it is incumbent on the part of the petitioners to establish the fact that they are repatriates and thus they are eligible to be continued in the said quarters and if they fail to do so, it is definitely open for the authorities to see that they are evicted from the said quarters and the same are allotted to the eligible repatriates. Hence, this Court is of the view that the said action directing petitioners to

vacate the quarters is violative of principles of natural justice and accordingly the notice in Rc.1684/1997 RCR, dated 05-05-1997 is hereby set aside. Further, there shall be a direction to the respondents to give an opportunity to the petitioners to establish that they are repatriates from Burma and thus are entitled for the quarters after issuing notice to them. The said exercise shall be done within a period of four weeks from the date of receipt of a copy of this order.

9. With the above directions, the writ petition is disposed of. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.18-01-2007
GLV